

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN KRITCHER,

on behalf of himself and all other persons similarly
situated, known and unknown,

Plaintiff,

vs.

Case No: 2:16-cv-12637-BAF-EAS

Hon. Bernard A. Friedman

**PRUDENTIAL SECURITY, INC. and
GREGORY WIER**

a Michigan for-profit corporation
and its corporate officer,

Defendants.

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PLAINTIFF'S RESPONSES TO DEFENDANTS' AFFIRMATIVE DEFENSES

1. Deny. Plaintiff has alleged facts sufficient to sustain a Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, claim under the *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), standard of pleadings. In addition to Plaintiffs allegations, Plaintiff has submitted pay records and time records as evidence of Defendant's failure to comply with the FLSA.

2. Deny. Plaintiff was not paid correctly under 29 U.S.C. §§ 206, 207, because he did not receive one and one-half times his regular rate of pay for hours worked in excess of 40 hours in a workweek.
3. Deny. In 29 U.S.C. § 216(b) collective actions there is no size requirement analogous to Federal Rule of Civil Procedure Rule 23(a)(1). The purpose of the “opt-in” system of the collective action under the FLSA is to allow individuals who have had their rights violated know about the lawsuit and give them an opportunity to have their rights vindicated under the law.
4. Deny.
5. Deny.
6. Deny.
7. Deny.
8. Deny.
9. Deny.
10. Deny.
11. Deny.
12. Deny.
13. Deny.
14. Plaintiff asserts that no response is required, as this not a properly pled affirmative defense, and all affirmative defenses not properly pled with the first responsive pleadings are waived.

Respectfully submitted,

/s/ Bryan Yaldou

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Attorneys for Plaintiffs

Date: October 17, 2016

CERTIFICATE OF SERVICE

I certify that on October 17, 2016, I electronically the forgoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

/s/Bryan Yaldou